

PATENT
Docket No. 415852000100
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Tamara Venegas
Tamara Venegas

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Jeffrey John GORMAN

Serial No.: 09/202,035

Filing Date: December 4, 1998

For: VIRAL PEPTIDES WITH
STRUCTURAL HOMOLOGY TO
PROTEIN G OF RESPIRATORY
SYNCYTIAL VIRUS

Examiner: B. Li

Group Art Unit: 1648

RESPONSE TO ELECTION OF SPECIES

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the non-final Office Action dated March 7, 2001 (Paper No. 18), for which a response was due on April 7, 2001. Filed herewith is a Petition and fee for a one month extension of time, thereby extending the deadline for response from April 7, 2001 to May 7, 2001. Accordingly this response is timely filed.

As a preliminary matter, Applicant notes that the Examiner stated in the Office Action on page 3 that "[The species of peptides selected] have different molecular structure *in length* or in amino acid" (italics added). Applicant notes that all of the sequences in claim 5 represent amino acids 149-197 of the G proteins of variants of different subtypes of RSV. All of the claimed sequences (SEQ ID NOs. 1-18) are of the same length. Where no amino acid is designated in a particular position in SEQ ID NOs. 2-18, the amino acid at that position is the same as the amino acid at the same (corresponding) position in SEQ ID NO. 1.

The Examiner has required Applicant under 35 U.S.C. §121 to elect a single disclosed species.


Applicant hereby elects species (a) The compound consists of amino acid sequences SEQ ID NO. 1. With this election, claims 1-15, 19-20, 22, 24 and 26 remain under consideration. Applicant expressly reserves his right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application. Applicant further requests rejoinder of withdrawn species claims upon allowance of a claim that encompasses the currently withdrawn species. MPEP 809.02(c).

Applicant requests examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 415852000100. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: May 2, 2001

By: 
Paul S. Naik
Limited Recognition Under 37 C.F.R.
§10.9(b)
(copy of certificate previously submitted)

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**TRANSMITTAL
FORM**

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Total Number Of Pages In This Submission

6

Application Number

09/202,035

Filing Date

December 4, 1998

First Named Inventor

Jeffrey John GORMAN

Group Art Unit

1648

Examiner Name

B. LI

Attorney Docket No.

415852000100

ENCLOSURES (check all that apply)☒ Fee Transmittal Form - 1 page +
duplicate copy for fee processing☐ Fee Attached☒ Amendment / Reply - 2 pages☐ After Final☐ Affidavits/declarations☒ Extension of Time Request - 1 page☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Response to Missing Parts/
Incomplete Application☐ Response to Missing Parts
under 37 CFR 1.52 or 1.53☐ Assignment Papers
(for an Application)☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a
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Remarks

☐ After Allowance Communication to
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or

Individual Name

Morrison & Foerster LLP, 755 Page Mill Road, Palo Alto, California 94304

Paul S. Naik (Limited Recognition Under 37 CFR §10.9(b), certificate previously submitted)

Signature

Date

May 2, 2001

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Tamara Venegas

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